IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR.

LETTERS PATENT APPEAL NO. 201 OF 2007

Baburao V. Lodhekar .vs. A.R. Coop. Societies

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrars orders.	Court's or Judge's orders.

CORAM: A.P. LAVANDE & R.V. MORE, JJ.

DATED : AUGUST 17, 2007.

Heard Mr. Tambde, learned Counsel for the appellants.

The proceedings arise out of enquiry under Section 88 of the Maharashtra Cooperative Societies Act, 1960. The Authorised Officer worked out the liability of the appellants to the extent of Rs.81,546/- for act of misfeasance.

This order of the Authorised Officer was confirmed in appeal by the Divisional Joint Registrar, Cooperative Societies. The appellants challenged both the orders of Authorised Officer and Joint Registrar before the learned Single Judge of this Court by filing Writ Petition No. 5078/06. Same also came to be dismissed by an order dated 17.7.2007. This order is impugned in the present Letters Patent Appeal.

The only submission made by the learned Counsel for the appellants is that the provisions of Rule 72(5) of the Maharashtra Cooperative Societies Rules, 1961 are not followed by the Authorised Officer and, therefore, enquiry under section 88 is vitiated. The learned Single

Judge in para 5 of the impugned order has observed that the appellants were supplied with relevant documents. The appellants were also permitted inspection of documents, however, they failed to take inspection. So far as the appellants contention that they were not allowed to cross-examine one Mr. Agrawal is concerned, the impugned order reveals that Mr. Agrawal at the relevant time was present for cross-examination but the appellants declined to cross-examine him. Be that as it may, there is no dispute that Mr. Agrawal is no more. In the aforesaid facts and circumstances, we do not see any merit in the contention of learned Counsel for the appellants that the provisions of Rule 72(5) of the Maharashtra Cooperative Societies Rules, 1961 were not followed. The learned Single Judge has taken correct view of the matter and, therefore, we do not see any reason to interfere with the impugned order on merit.

The present Letters Patent Appeal deserves to be dismissed on the ground of maintainability. The Writ Petition as filed by the appellants before the learned Single Judge shows that same is filed by invoking the provisions of Article 227 of Constitution of India. In view of this, in our considered opinion, Letters Patent Appeal is not maintainable.

The appeal is, therefore, dismissed in limine.

JUDGE. **JUDGE.**

J.